



## State of Delaware Department of Human Resources

### ADVANCED STARTING SALARY OPERATING PROCEDURE

<b>Department of Human Resources Statewide Operating Procedure #: To be assigned.</b>	<b>Authority: Merit Rules 4.4.2, 4.4.3, 4.6, 4.7; State Budget Act.</b>
<b>Effective Date: May 27, 2020</b>	<b>Supersedes: N/A</b>
<b>Application: Executive Branch Agencies</b>	

#### 1. **ELIGIBILITY**

Agencies requesting Advanced Starting (AS) Salary, AS Salary with Leveling Up, or State Budget Act Line Item (budget line item) salaries for individual eligible employees.

#### 2. **POLICY/REGULATION**

- a. The pay rate must be determined in relation to current employees doing work in the classification called an internal assessment. The internal assessment involves reviewing current employees' related education, training, and experience relative to the top candidate's related education, training, and experience and determining an appropriate and equitable salary offer. When determining the salary to offer new hires, promotions, and voluntary demotions, the top candidate's current salary and/or salary history cannot be asked or used when determining the initial salary offer to the candidate.<sup>1</sup> Once the initial salary offer has been extended, an employer may inquire about the applicant's compensation history only for confirmation purposes.
- b. When an employee's or applicant's qualifications are clearly over and above those required as minimum by the class specification, Agencies may request AS Salaries for new hires (Merit Rule (MR) 4.4.2), promotions (MR 4.6), and voluntary demotions (MR 4.7).<sup>2</sup> These requests are for a salary above 85% of midpoint and above 80% for classes on Selective Market Variation (SMV) or to hire a candidate into a budget line item division-level position.

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<sup>1</sup> Per 19 *Del.C.* § 709B(b), (e) *Unlawful employment practices; compensation history*. It is an unlawful employment practice for an employer or an employer's agent to seek the compensation history of an applicant from the applicant or a current or former employer. Nothing in this section prohibits an employer or an employer's agent from seeking the applicant's compensation history after an offer of employment with terms of compensation has been extended to the applicant and accepted, for the sole purpose of confirming the applicant's compensation history.

<sup>2</sup> For Advanced Starting Salary Requests of 80% to 85% of Pay Grade Midpoint for Agency operational staff and for SMV Advanced Starting Salary Requests up to 80% of Pay Grade Midpoint, Agency Human Resources (HR) manages the process without central compensation review. Agency HR shall document the rationale and equity for these requests.

- c. The AS Salary Request process applies to Classified<sup>3</sup> and Merit comparable (Exempt) positions.<sup>4</sup> Promotional AS Salaries requested for over 85% of midpoint and over 80% for classes on SMV of an employee in a Merit or Merit comparable position must be requested and approved by the DHR Secretary. Merit position requests are in accordance with MR 4.6. Merit Comparable requests are in accordance with Section 9(a) of the Fiscal Year Budget Act which states that employees accepting an exempt position will be treated in accordance with MRs 4.4.3 (Critical Shortage), 4.5 (Transfers), 4.6 (Promotion), and/or 4.12 (pay rates after reclass or grade change). Requests for initial hire into an exempt position and voluntary demotion requests do not require Central Department of Human Resources' (DHR) approval. Agency HR can set the rate of pay, within the range of the pay grade being entered, after considering internal equity.
- d. If the approved AS Salary is for an employee being hired into a position in a class with a substantiated critical shortage of applicants, Agency Human Resources (HR) representatives are to consider existing lower paid, equally qualified employees' salaries, in the same class within the same geographic area if their performance is satisfactory. For leveling up, the request must document the classification critical shortage per Merit Rules. Leveling up employees requires the approvals of the DHR Secretary, the Director of the Office of Management and Budget (OMB), and the Controller General (CG).
- e. Advanced starting salaries for a change in appointment status can be requested when a permanent employee promotes into a limited-term position and later moves to a full-time permanent position in the same classification/pay grade or when an employee accepts a temporary promotion and later moves to a permanent position.
- f. As a result of a grievance or arbitration decision or settlement or when the pay rate of a new or promoted employee creates a 20% salary variance within the class, leveling up may be requested per the State Budget Act. Leveling up employees requires the approvals of the DHR Secretary, the OMB Director, and the CG.
- g. Agencies hiring a candidate for a budget line item<sup>5</sup> division-level position must follow approval procedures outlined in this Policy prior to making any salary offer. Starting salaries at the amount listed in the State Budget Act require approval of the DHR Secretary, the OMB Director, and the CG.
- h. If an AS Salary Request involves a candidate that does not meet or exceed the job requirements, the request will not be processed and will be returned to the Agency with no action.

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<sup>3</sup> Classified positions are those defined in 29 *Del.C.* § 5903.

<sup>4</sup> Merit comparable is defined in the State Budget Act Epilogue, Sections 9(a).

<sup>5</sup> Budget line item positions are defined in the State Budget Act Epilogue, Sections 10(a).

### **3. OPERATING PROCEDURES**

#### **Advanced Starting Salaries**

- a. When a need arises to offer an AS Salary, Agency HR are to request approval by using the AS Salary Request process within 30 days of the hire or promotion effective date.
- b. The Agency HR representative prepares an AS Salary Request form if an Agency requires approval for over 85% of midpoint or over 80% if the class is SMV.
  - 1) In Part 1, the sections for Contact name, email and phone number must be entered. The name of the Agency Fiscal Designee must be entered signifying that salary funds at the Agency are available to support the request. The type of AS Salary Request must be selected.
  - 2) In Part 2, all the request details must be entered.
  - 3) In Part 3, an explanation of how the applicant meets or exceeds each job requirement of the class by each specification must be entered.
  - 4) In Part 4, equity information must be provided. The chart is to list the salary amount requested and percentage of midpoint it represents; the relevant education and experience of the candidate or promoted employee(s) with the most recent previous experience; and all employees currently in the class that the requested AS Salary will equal or bypass with the highest salary listed first.
    - i. Only knowledge and work experience that support job and selective requirements count as relevant.
    - ii. Training counts toward job knowledge, not experience.
    - iii. Part-time experience is counted as 50% of full-time experience in most circumstances.
    - iv. Enter supervisory experience only when position is supervisory.
    - v. Concurrent jobs when one is full time cannot count as more than one job for the time period.
    - vi. Generally, volunteer work does not count toward exceeding job or selective requirements.
    - vii. Internships count toward education.
  - 5) When a classification has one incumbent, Agency HR does an internal assessment of comparable classes in the same pay grade in the same occupational grouping and/or a review of the employees in the same organizational reporting line to determine equity.
  - 6) In Part 5, include additional information, including why the requested employee/applicant can bypass other employees in the class.
- c. Agency HR submits a completed AS Salary Request form with all required documents to the [DHR-Class-Comp@delaware.gov](mailto:DHR-Class-Comp@delaware.gov) inbox. The candidate's application must be attached to the AS Salary Request. All requests require a copy to the Department's Appointing Authority or Designee and to the Agency Fiscal Representative.

- d. Once received at Central Classification and Compensation (C/C/C), the C/C/C Administrative representative (C/C/C Admin) records the request into the Central Tracking System (CTS) log and sends Agency HR receipt response. Each step in the process will be logged into the CTS by this representative.
- e. The AS Salary Request will be evaluated only when all the required information is submitted.
- f. The DHR C/C/C representative (C/C/C Rep) assigned may schedule a conference call with the Agency HR representative to review this request and its priority among all the Agency's submitted requests. DHR will determine if the request is justified and discuss any alternative recommendations with the Agency.
- g. The C/C/C Rep conducts the analysis, prepares the recommendation, and provides them to the C/C/C Manager for approval followed by review by the C/C/C Administrator.
- h. C/C/C Admin provides the request with the final determination to the Office of the Secretary for signature.
- i. The Agency Classification and Compensation (C/C) representative will receive written notification from C/C/C upon determination of the request and execution by the DHR Secretary and, if applicable, the Director of OMB and, if applicable, the CG. Agency HR is responsible for notifying and providing a copy to the Agency Fiscal Designee.
- j. Agency HR proceeds with implementation with an effective date of hire, voluntary demotion or promotion and must document the employee AS Salary appropriately in PHRST.

### **AS Salaries with Leveling Up**

- a. When a need arises to offer an AS Salary to a candidate when a documented critical shortage exists for the classification (class) per the Merit Rules, as a result of a grievance or arbitration decision or settlement, or when the pay rate of a new or promoted employee affects other employees in that class and per the criteria authorized by the State Budget Act found in Section 2.e. of this OP, Agencies may request approval for leveling up using the AS Salary Request process.
- b. Agency HR prepares an AS Salary Request form and completes Parts 1, 2, 3, 4, and 5.
  - 1) In Part 1, the sections for Contact Name, Email and Phone Number must be entered. The name of the Agency Fiscal Designee must be entered signifying that salary

funds at the Agency are available to support the request. The type of request must be selected.

- 2) In Part 2, all the details requested must be entered.
  - 3) In Part 3, an explanation of how the applicant meets or exceeds each job requirement of the class by each specification must be entered.
  - 4) In Part 4, equity information must be provided. The chart is to list the salary amount requested and percentage of midpoint it represents; the relevant education and experience of the candidate or promoted employee(s) with the most recent experience and all employees that will be equaled or bypassed currently in the class with the highest salary listed first.
  - 5) In Part 5, an explanation of the circumstances surrounding the request including verification of the class critical shortage per the Merit Rules or verification of meeting the criteria authorized by the State Budget Act.
    - i. For verification of class critical shortage, a description of recruiting efforts and results includes: the number of postings for this classification/postings that received less than five (5) qualified applicants on competitive referral lists over the last 12 months; that the vacancy was frequently posted for 2-week periods over the last 12 months; and that it was posted in a variety of media sources over the last 12 months. Documentation that salary funds are available is also to be included.
    - ii. For verification of meeting the leveling up conditions under the State Budget Act, information must include: other employees in the same classification and Agency whose background in terms of education and experience are equal to or higher than that of the new or promoted employee(s) or as a result of a grievance or arbitration decision or settlement, and calculations demonstrating at least a 20% salary variance in the classification, per a. of this AS Salaries with Leveling Up section; an explanation of how the level of adjustment(s) would not result in negative equity consequences for other related positions in that class at the same job location. Documentation that salary funds are available is also to be included.
  - 6) Include additional information, including why the requested employee/applicant can bypass other employees in the class.
- c. Follow Procedures c. through j. under Advanced Starting Salaries of this Policy section.

### **Starting Salaries for Line Item Positions**

- a. When a need arises to offer a starting salary to a candidate for a budget line item division-level manager position listed in the State Budget Act, Section 10(a) Agencies are to request approval by using the AS Salary Request process.
- b. If a State of Delaware (State) employee is offered an appointment to a division-level, line item position, a determination needs to be made as to whether the position has an equivalent value equal to, greater than, or less than the pay grade assigned to the

position the employee is vacating. Contact the DHR Compensation Manager to determine the promotional status of the request.

- c. Agency HR prepares an AS Salary Request form and completes Parts 1, 2, and 5.
  - 1) In Part 1, the sections for Contact Name, Email and Phone Number must be entered. The name of the Agency Fiscal Designee must be entered signifying that salary funds at the Agency are available to support the request. The type of request must be selected.
  - 2) In Part 2, all the details requested must be entered.
  - 3) In Part 5, provide a brief summary of the job OR an explanation of the circumstances surrounding the request including the amount requested and justification for the request.
  - 4) A resume or employment application must accompany all requests.
- d. Follow Procedures c. through j. under Advanced Starting Salaries of this Policy section.

#### **4. DEFINITIONS**

- Advanced Starting Salary – A salary offer for new hires, promotions or voluntary demotions that is above 85% of midpoint on the merit pay ranges; above 80% of midpoint on the Selective Market Variation pay ranges; or for a Budget Line Item division-level manager position.
- Agency Fiscal Designee – The Agency fiscal representative that has been notified of the request.
- Appointing Authority/Appointing Designee – the official, or designee, who has the authority to make appointments to, or dismiss employees from, the Merit service. (The appointing authority is the Cabinet Secretary of the department or the Agency head of those units which are not a part of a larger Agency. Only the Cabinet Secretary or Agency head may dismiss employees.) (MR 19)
- C/C - Classification/Compensation staff at Agency Human Resources.
- C/C/C – Department of Human Resources Central Classification and Compensation.
- Classified Positions – State of Delaware employee positions defined in 29 *Del.C.* § 5903.
- Concurrent Hire – two jobs that happen during the same time period.
- Contingent Hire – A non-State employee who will not accept a State position unless an Advanced Starting Salary is offered.

- Critical Shortage of Applicants/Documented Critical Shortage of Applicants  
“Critical shortage” – defined as fewer than five applicants on an open competitive referral list over the last 12 months; the vacancy was frequently posted for two-week periods over the last 12 months; and the vacancy was posted in a variety of media sources over the last 12 months. (MR 4.4.3)
- CTS - Central Tracking System, a method of tracking requests filed with Central Classification and Compensation.
- Demotion – the movement of an employee from a position in a class of a higher pay grade to a position in a class of a lower pay grade through a process other than reclassification. (MR 19)
- Internal Assessment – A review of current employees’ related education, training, and experience relative to the top candidate’s related education, training, and experience to determine an appropriate and equitable salary offer.
- Internal DHR Policy – A policy issued by the Department of Human Resources (DHR) which applies to the work of DHR employees.
- Leveling Up – A rate above the minimum where a critical shortage of applicants exists and all lower paid, equally qualified employees’ salaries are brought up to a New Hire’s salary, if certain criteria are met.
- Merit Comparable - “Merit comparable positions” means those positions which for salary determination purposes are assigned, pursuant to the State Budget Act, classification titles and/or pay grades that are comparable to the titles and/or pay grades of similar positions in the classified service. (19 *Del.C.* § 5901(5))
- New Hire – An employee who is hired from outside State employment.
- Promotion – Movement of an employee from a lower pay grade to a higher pay grade.
- Relevant Work History – Work history as it relates to the job requirements and/or selective requirements.
- Salary History – Per 19 *Del.C.* § 709B, it is an unlawful employment practice for an employer to seek the compensation history of an applicant from the applicant or a current or former employer.
- Selective Market Variation (SMV) - a process used to increase the salary range for job classifications where severe market competition makes it difficult for the State to recruit and retain qualified employees. (MR 19)

- Selective requirement: any education, training and/or experience not specifically indicated in the job requirements of a class specification that are required, as they are considered job related and essential for effective performance in a specific position at the time of hire. (MR 19)
- State Budget Act Line Item – Request for salary listed in Section 10 of the State Budget Act.

**5. EXCLUSIONS OR EXCEPTIONS**

- Union-covered employees with a compensation Collective Bargaining Agreement
- Casual/Seasonal employees

**6. FORMS ASSOCIATED WITH THIS POLICY**

[Advanced Starting Salary Request Form](#)